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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2007

CORAM

THE HON'BLE MR.JUSTICE P.D. DINAKARAN

Civil Miscellaneous Appeal No.38 of 2000

Metropolitan Transport Corporation
(Division I) Ltd.,
rep. by its Managing Director,
Chennai. .. Appellant(Respondent)
(Cause Title accepted by order of this
court dated 11.3.99 in CMP 3946/99.

Vs.

1. M. Kamala
2. P. Marimuthu .. Respondents(Petitioners)

Appeal FILED U/S 173 M.V.Act 1988 against the order and decree dated 27.3.1998 made in M.C.O.P.No.1231 of 1996 on the file of the Motor Accident Claims Tribunal (Chief Judge, Court of Small Causes), Chennai.

For Appellant : Mr.A.Babu
For Respondents : Mr.N.M.Muthurajan

J U D G M E N T

The above appeal is directed against the award dated 27.3.1998 made in M.C.O.P.No.1231 of 1996 on the file of the Motor Accident Claims Tribunal (Chief Judge, Court of Small Causes), Chennai.

2. The Transport Corporation is the appellant. On 13.8.1995 at 4.15 p.m., when the deceased Mohan was travelling as pillion rider in a motor cycle bearing Registration No. TMT 1757 from Aminjikarai to Villivakkam on Anna Nagar, III Main Road, the bus bearing Registration No. TN-01-N-1290 belonging to the appellant Transport Corporation, came from west to east direction, driven in a rash and negligent manner, dashed against the motor cycle, and as a result, the pillion rider sustained fatal injuries. Therefore, respondents herein, who are mother and father of the deceased, filed M.C.O.P.No.1231 of 1996 before the Tribunal claiming a compensation of Rs.3,00,000/-. The Tribunal awarded a sum of Rs.2,25,000/- against which the present appeal has been filed by the Transport Corporation.

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3. The learned counsel for the appellant contended that the Tribunal erred in coming to the conclusion that the driver of the bus of the appellant was alone responsible for the accident, as the rider of the motor cycle suddenly crossed the road, due to which, the pillion rider fell down and sustained fatal injuries and that the multiplier of 13 adopted by the Tribunal is wrong since the claimants are aged parents.

4. The Tribunal, taking note of the oral evidence of P.W.2, the rider of the motor cycle, in which the deceased was travelling as a pillion rider, that the driver of the bus viz., R.W.1 had driven the bus in a rash and negligent manner and dashed against the motor cycle and as a result of which both P.W.2 and the deceased were thrown on the road, he sustained injuries on his knee and the deceased sustained grievous injuries on his head and Ex.P4, first information report, lodged by P.W.2, and Ex.P5 rough sketch, held that the driver of the bus was alone responsible for the accident.

5. I am of the considered view that the above said decision of the Tribunal that the driver of the bus was alone responsible for the accident, is just and proper, as it is based on oral and documentary evidence.

6. With regard to the multiplier adopted by the Tribunal, it is contended by the learned counsel for the appellant that the claimants being parents, correct multiplier that should have been adopted is 12, but not 13 as adopted by the Tribunal, which is also not disputed by the learned counsel appearing for respondents/claimants.

7. Hence, taking into consideration the age of the first claimant viz., mother, 48, the proper multiplier would be 12. If the proper multiplier 12 is adopted, the total loss of income would come to Rs.3,02,400/- (Rs.2,100/- x 12 x 12) and after deducting 1/3rd towards personal expenses of the deceased, the loss of income to the family would come to Rs.2,01,600/- (Rs.3,02,400/- less Rs.1,00,800/-) and the same is fixed as loss of income to the family of the deceased instead of Rs.2,18,400/- as fixed by the Tribunal. The compensation awarded towards conventional damages is confirmed. Thus, the respondents/claimants are entitled to a total sum of Rs.2,08,200/- as compensation as per the details given below.

Loss of income	:Rs.2,01,600/-
Loss of love and affection	:Rs. 6,600/-
Total	Rs.2,08,200/-

8. As regards interest, the Supreme Court in U.P. State Road Transport Corporation v. Krishna Bala (2006 (3) MLJ 1499 SC), wherein the interest was fixed at 12% per annum by the Tribunal, reduced the interest to 9% per annum taking note of the then prevailing rate of interest in

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bank deposits.

9. In view of the above decision, I am of the view that it would be just and proper to reduce the interest awarded by the Tribunal to 9% per annum.

10. In the result, the appeal is partly allowed, reducing the award of the Tribunal from Rs.2,25,000/- to Rs.2,08,200/- together with interest @ 9% interest per annum from the date of filing the petition till the date of realisation. No costs.

ATR

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Chief Judge,
   Court of Small Causes,
   (Motor Accident Claims Tribunal)
   Chennai.

2. The Registrar
   Court of Small Causes
   Chennai.(with Records)

3. The S.O.
   VR.Section, High Court, Madras.

+1 cc to Mr.A.Babu, Advocate Sr.No.12510.

+1 cc to Mr.N.Muthu Rajan, Advocate Sr.No.12888.

MM(CO)
dcp/29.3.07

C.M.A.No.38 of 2000

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